

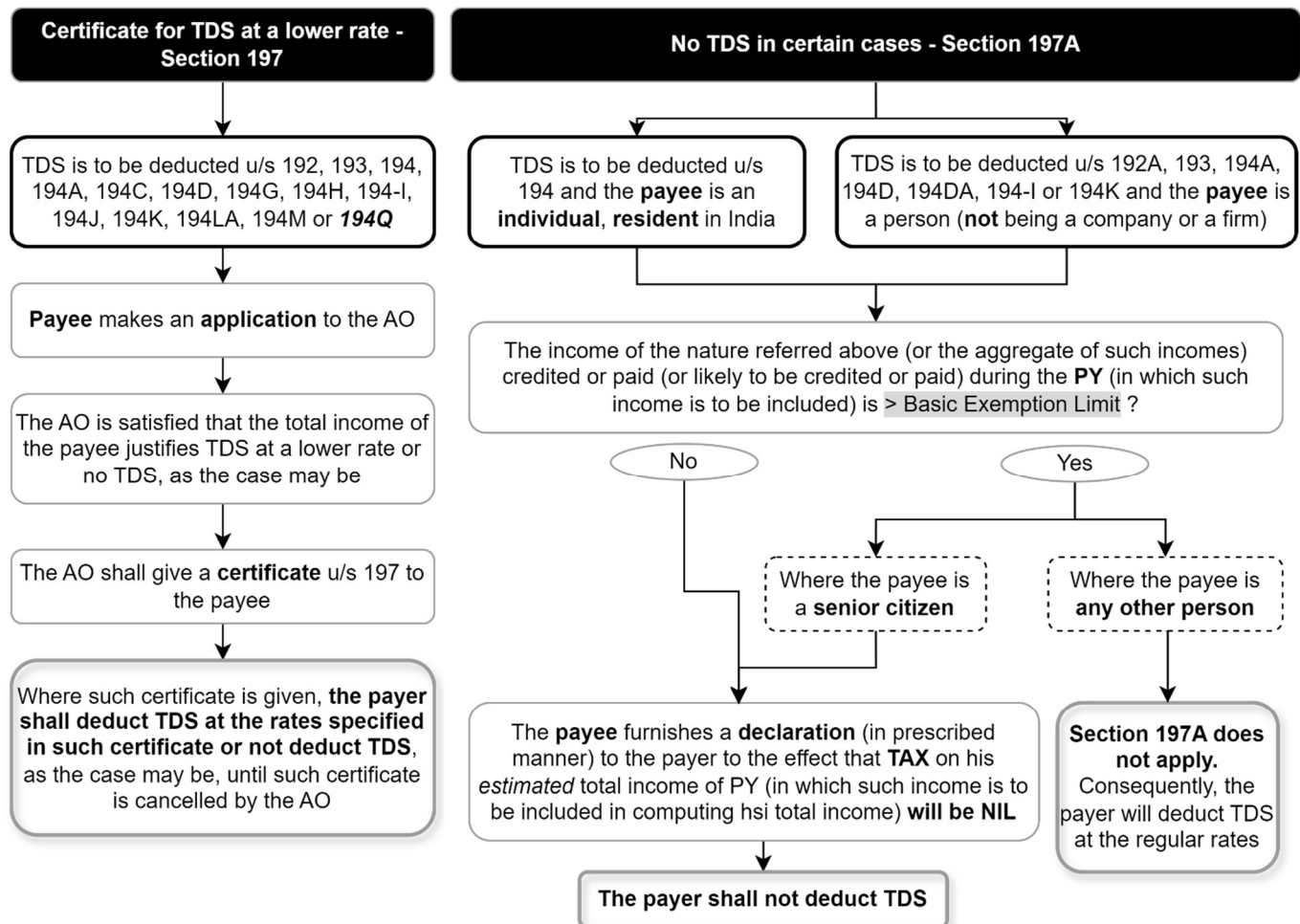
14

TDS, TCS & Advance Tax

Extra provisions for detailed and comprehensive study

220. TDS AT LOWER RATE OR NIL TDS [S. 197, 197A]¹

TDS is to be deducted at the rate specified under the relevant provision. However, in certain situations, deduction of TDS may be justified at a lower rate or deduction of TDS may not be justified. An example of such situation could be where the estimated tax liability of the payee for the relevant PY is Nil. Sections 197 and 197A provide two avenues for a payee for reducing the amount of TDS deducted on his behalf. Section 197 allows the payer to deduct TDS at a lower rate or not deduct TDS on the strength of a certificate issued by the AO consequent to an application made by the payee. On the other hand, section 197A allows the payer not to deduct TDS on the strength of a declaration furnished by the payee if the payee estimates the tax on his estimated total income of the PY to be Nil. The provisions of sections 197 and 197A are depicted below for a clear understanding.



AO: Assessing Officer. For basic exemption limit (BEL), see para 13. Section 197 is applicable to section 194Q w.e.f. 1.10.2024.

Senior citizen: Means an individual resident in India, of the age of 60 years or more at any time during the PY.

PAN to be furnished: The following provisions regarding furnishing of PAN by the payee should be noted:

- Certificate u/s 197 is not granted unless the application made u/s 197 contains the PAN of the applicant.

¹ Objective is to reduce compliance burden and cash flow issues in cases where there is no need to deduct TDS or where TDS can be deducted at a lower rate, if the estimated total income so justifies.

- Declaration u/s 197A is **not valid** unless the person furnishes his PAN in such declaration. In case, any declaration becomes invalid due to non-furnishing of PAN, the payer is required to deduct TDS at the rate specified **u/s 206AA** [para 218A.1].

While section 197 allows for No TDS or TDS at a lower rate based on the certificate given by the AO, section 197A allows for No TDS based on self-declaration by the payee.

For certain sections, only section 197 is available, for certain sections only section 197A is available and for certain sections both sections 197 and 197A are available.

Declaration cannot be given by the payee u/s 197A if incomes of the nature referred under the specified sections (or aggregate of such incomes) during the PY exceed the BEL even if the total income of the payee for the PY is not estimated to exceed the BEL (i.e., tax is estimated to be Nil).² However, relief is provided to a senior citizen whereby he can furnish the declaration even if the amount of such incomes exceed the BEL, provided his total income of the PY is not estimated to exceed BEL (i.e., tax is estimated to be Nil).

TDS needs to be deducted at the regular rates in cases not covered u/s 197 or 197A.

Benefit of section 197 as well as 197A is not available for casual income sections (194B, 194BA, 194BB; para 214), certain property related sections (194-IA, 194-IB; para 217), certain trade & commerce related sections [194Q (**till 30.9.2024**); 194R; para 217A] and certain special cases sections (194N; 194P; para 218).

ILLUS 220.1 to 220.3: 1: Mr. D, a resident aged 45 years, estimates his total income for the PY to be taxable at a slab rate of 5%. He is entitled to interest of Rs. 1 lakh on fixed deposits made with SBI. Can he reduce the amount of TDS deductible on the interest income? - TDS on interest is deductible @ 10% u/s 194A. He can apply to the AO u/s 197 for a certificate of TDS at a lower rate. He cannot furnish declaration u/s 197A since the tax on his estimated total income for the PY will not be Nil.

2: Mr. J, a resident aged 65 years, estimates his gross total income for the PY to be Rs. 4,20,000 and investments eligible for deduction u/s 80C of Rs. 1,50,000. Likely interest on debentures of companies would amount to Rs. 1,00,000, dividend income would amount to Rs. 1,00,000 and interest on corporate deposits would amount to Rs. 1,50,000. Can he reduce the amount of TDS deductible on these incomes? Consider optional tax regime. - Mr. J is a senior citizen. Incomes are covered u/s 193, 194 and 194A. Even though the aggregate of such incomes of Rs. 3.5 lakh is > basic exemption limit of Rs. 3 lakh, Mr. J can furnish a declaration u/s 197A since the tax on his estimated total income for the PY of Rs. 2,70,000 (4,20,000 GTI – 1,50,000 deduction u/s 80C) would be Nil. Alternatively, Mr. J can apply to the AO for a certificate u/s 197.

3: Mr. J is a resident aged 54 years. He estimates his gross total income for the PY at Rs. 3,50,000 out of which insurance commission would be Rs. 3,00,000. Investments u/s 80C would be Rs. 1,50,000. Can he reduce the amount of TDS deductible on insurance commission? Consider optional tax regime. - Mr. J is not a senior citizen. TDS is deductible u/s 194D. Since insurance commission of Rs. 3 lakh is > basic exemption limit of Rs. 2.5 lakh, he cannot furnish the declaration u/s 197A even if the tax on his estimated total income of Rs. 2,00,000 (3,50,000 GTI – 1,50,000 deduction u/s 80C) would be Nil. He can apply to the AO for a certificate u/s 197.

222. PROCEDURE FOR TDS [S. 200, 203]

The procedure for payment/certificate/statement of TDS is briefly given below (since the procedure for payment of TDS is already given in the book, the same is given here in grey color):

² Objective is to discourage and prevent non filing of ROI merely because no TDS has been deducted based on self-declaration u/s 197A even when the specified incomes exceed the basic exemption limit.

Scheme	Where TDS is deducted by an office of Government		Where TDS is deducted by any other person													
Section	Any section		Other than u/s 194-IA, 194-IB, 194M		U/s 194-IA, 194-IB, 194M											
Payment of TDS:																
Due date for payment of TDS to the credit of Central Government	Where TDS is paid without production of an income-tax challan (i.e., book entry): TDS is to be paid on the same day	Where TDS is paid accompanied by an income-tax challan : TDS is to be paid on or before 7 days from the end of the month in which TDS is deducted	Income/amount is credited/paid in ↓		Due date ↓	Within 30 days from the end of the month in which TDS is deducted										
			April to February	7 days from the end of the month in which TDS is deducted												
			March	30 April												
Quarterly payment of TDS in special cases	-	-	In special cases, the AO may permit quarterly payment of TDS deducted u/s 192, 194A, 194D or 194H as follows:			-										
			<table border="1"> <thead> <tr> <th>Quarter</th> <th>Due date</th> </tr> </thead> <tbody> <tr> <td>April-June</td> <td>7 July</td> </tr> <tr> <td>July-September</td> <td>7 October</td> </tr> <tr> <td>October-December</td> <td>7 January</td> </tr> <tr> <td>January-March</td> <td>30 April</td> </tr> </tbody> </table>		Quarter	Due date	April-June	7 July	July-September	7 October	October-December	7 January	January-March	30 April		
Quarter	Due date															
April-June	7 July															
July-September	7 October															
October-December	7 January															
January-March	30 April															
Statement of TDS:																
Due date for furnishing the Statement of TDS to the prescribed authority	Month to which the statement relates ↓		Quarter		Due date	Within 30 days from the end of the month in which TDS is deducted										
	April – February	15 days from the end of relevant month	April-June				31 July									
	March	30 April	July-September		31 October											
			October-December		31 January											
			January-March		31 May											
Form No.	24G	24Q (u/s 192 or 194P); 26Q ³ (for other sections)			26QB, 26QC, 26QD ⁴											
Certificate of TDS:																
Due date to furnish certificate of TDS to the payee			Section	Periodicity	Due date	Within 15 days from the due date for furnishing Statement of TDS										
			192, 194P	Annual	15 June of the succeeding FY											
			Others	Quarterly	15 days from the due date for furnishing the Statement of TDS											

³ Form No. 27Q in respect of the deductee who is a non-resident not being a company or a foreign company or a RNOR.

⁴ Form No. 26QB u/s 194-IA. Form No. 26QC u/s 194-IB, Form No. 26QD u/s 194M.

Scheme	Where TDS is deducted by an office of <u>Government</u>	Where TDS is deducted by <u>any other person</u>
Form No.		16 (u/s 192 or 194P); 16A (for other sections)
		16B, 16C, 16D ⁵

Processing of TDS statement [S. 200A]: Once submitted, the Statement of TDS is processed pursuant to which TDS liability or refund is calculated and intimated to the deductor along with interest and fee applicable, if any.

228. PAYMENT OF ADVANCE TAX BY SELF OR PURSUANT TO ORDER OF ASSESSING OFFICER [S. 210]

Advance tax can be paid by the assessee of his own accord or in pursuance of an order of the Assessing Officer. The provisions are explained below.

1 – Payment of advance tax by assessee of his own accord

Every person, liable to pay advance tax, should pay advance tax of his **own accord**, i.e., on his own, as per the due dates and instalments [specified in para 227]. He need not submit the details of estimation of advance tax to the Assessing Officer. Advance tax should be so paid by the person whether or not he has been previously assessed by way of regular assessment.

2 – Payment of advance tax by assessee pursuant to order of Assessing Officer⁶

The Assessing Officer can make an order in writing requiring a person to pay advance tax and issue to him a notice of demand specifying the instalments in which such tax is to be paid. Such order can be made where:

- The person has already been assessed by way of regular assessment in respect of total income of any PY; and
- The Assessing Officer is of opinion that such person is liable to pay advance tax.

The order can be made by the Assessing Officer at any time during the FY but not later than the **last day of February**. The law also provides for amendment of the order by the Assessing Officer.

If the person estimates the advance tax payable on his current income to be **lesser** than that specified in the order of the Assessing Officer, he **may** send an intimation in the prescribed Form to the Assessing Officer to that effect and pay the advance tax as per his estimate in accordance with the instalments and due dates [specified in para 227] falling **after** the date of such intimation.

However, if the person estimates the advance tax payable on his current income to be **higher** than that specified in the order of the Assessing Officer or intimated by him as above, he **should** pay the appropriate part or, as the case may be, the whole of such higher amount of advance tax as per his estimate, on or before the due date of the **last** instalment [specified in para 227].

If the assessee does not pay advance tax as per the order of the Assessing Officer *and* does not send the aforesaid intimation to the Assessing Officer for a lower estimate OR does not pay advance tax as per his higher estimate, he is *deemed* to be an **assessee in default** in respect of such instalment(s).



⁵ Form No. 26QB u/s 194-IA. Form No. 26QC u/s 194-IB, Form No. 26QD u/s 194M.

⁶ Objective is to enable Assessing Officer to ensure payment of advance tax not only in cases of non-payment of any instalment of advance tax but also in cases of short payment of advance tax, say, where first instalment is paid but subsequent instalments are not being paid.